



NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 63168  
3 November 2010

Mr. Jason Smathers  
185 Beacon Street, #3  
Somerville, MA 02143

Dear Mr. Smathers:

This is an initial response to your Freedom of Information Act (FOIA) request postmarked 7 October 2010, which was received by this office on 14 October 2010, for "All records which help a person who processes FOIA requests for the NSA determine if they should respond by neither confirming or denying the existence of the responsive records." Your request has been assigned Case Number 63168. This letter indicates that we have begun to process your request. There is certain information relating to this processing about which the FOIA and applicable Department of Defense (DoD) and NSA/CSS regulations require we inform you.

I have considered your request to be classified as a "representative of the media" and determined that it should be denied. The FOIA, at 5 U.S.C. 552 (a)(4)(A)(ii), sets three standards that must be met for a requester to qualify as a representative of the news media:

1. Requester must be a person or entity that gathers information of potential interest (news) to a segment of the public. The FOIA defines 'news' as information that is about current events or that would be of current interest to the public.
2. Requester must use its editorial skills to turn the raw materials into a distinct work.
3. Requester must distribute that work to an audience.

I have determined that you do not meet standards 1 and 2, as listed above. The first criterion that must be met to be considered a representative of the news media is that the requester gathers the information in the public interest. Representatives of the news media normally are organized to seek out and gather information generated by public interest, not information generated by internal interests the individuals or organizations may have. This is what

qualifies these individuals or organizations to be considered as members of the news media. However, it appears that you choose what information to gather based on your personal interest in the topic. In addition, a great deal of information on your topic of interest, neither confirming nor denying the existence of the responsive records when responding to FOIA requests, is publicly available. Therefore, it is unlikely the information would be of current interest to the public. To meet the second criterion, a requester must use its editorial skills to turn raw material into a distinct work. You have offered no information with regard to your intended use of any materials that might be released as a result of this FOIA request. Finally, we found no evidence of your ability to use editorial skills to create a distinct work from information gathered because you state only that the documents will be made available to the public.

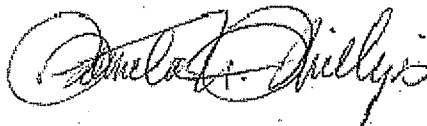
The Initial Denial Authority for NSA is the Deputy Associate Director for Policy and Records, Diane M. Janosek. If you disagree with the decision regarding your fee category, you may file an appeal to the NSA/CSS Freedom of Information Act Appeal Authority. The appeal must be postmarked no later than 60 calendar days after the date of the adverse determination. The appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority (DJP4), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. The appeal shall reference your fee category and shall contain, in sufficient detail and particularity, the grounds upon which you believe the adverse determinations are unwarranted. The NSA/CSS FOIA Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent any unusual circumstances.

Since you do not qualify for media status, you have been placed in the "all other" fee category. As such, you are allowed 2 hours of search and the duplication of 100 pages at no cost. Since processing fees were minimal, no fees were assessed.

We have completed our search for records responsive to your request. The material responsive to your request was located in a similar FOIA request currently waiting to be processed. Therefore, your request has been placed in the first-in, first-out processing queue for Non-Personal Easy cases along with the previous request (FOIA Case 62606). Both requests will be processed together since the responsive documents for that request are also responsive in your case. Because there are several cases ahead of yours in that queue, however, we are unable to respond to your request within 20 days. We appreciate your patience with our efforts to treat all requesters fairly by responding to each on a "first-in, first-out" basis.

Correspondence related to your request should include the case number assigned to your request, which is included in the first paragraph of this letter. Your letter should be addressed to National Security Agency, FOIA Office (DJP4), 9800 Savage Road STE 6248, Ft. George G. Meade, MD 20755-6248 or may be sent by facsimile to 443-479-3612. If sent by fax, it should be marked for the attention of the FOIA office. The telephone number of the FOIA office is 301-688-6527.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela N. Phillips".

PAMELA N. PHILLIPS  
Chief  
FOIA/PA Office